IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE FOURTEENTH DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE BILAL NAZKI

and
THE HON'BLE MR JUSTICE L.NARASIMHA REDDY

WRIT PETITION NO : 3554 of 2005

Between:

Gantasala Venkateswara Rao, S/o. Vigneswara Rao,
R/o. Penumkalanka Village, nandigamalanka Post,
Mandavalli Mandal,Krishna District.

..... PETITIONER

AND

1 The Secretary to Government, Government of A.P., General Administration

Department, Secretariat, Hyderabad.
2 The Collector, and District Magistrate, Krishna District, Machilipatnam.
3 The Superintendent, Central Prison, Rajahmundy.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to Issue a writ or Habeas Corpus or any other appropriate writ, order or direction calling for the records relating to the order of detention passed by the 2nd respondent in Rc.No.13/2005/C2 dt. 09.01.2005 and quash the same and set at liberty the detenu viz., Jayamangala thirupathi Raju, S/o. Nageswara Rao, now detained in Central Prison, Rajahmundry and pass such other order or orders as may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner : MR.P.GOVIND REDDY

Counsel for the Respondents : THE ADVOCATE GENERAL

The Court at the admission stage made the following :

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ORDER : (Per Hon'ble Sri Justice Bilal Nazki)

The detention of Sri Jayamangala Tirupathi Raju has been challenged by way of this Writ Petition.

The detention order has been passed by the District Magistrate, Krishna District under Section 3 (1) and (2) r/w. Section 2(a) and (b) of the Andhra Pradesh Prevention of Dangerous Activities of Bootleggers, Dacoits, Drug Offenders, Goondas, Immoral Traffic Offenders and Land Grabbers Act, 1986 (hereinafter referred to as 'the Act').

One of the grounds taken in the writ petition to assail the order of detention is that the learned Magistrate has taken some oral complaints into consideration while coming to the subjective satisfaction as required under the Act and the material which he took into consideration by way of oral complaints was not communicated to the detenu. On page 3 of the grounds of detention, the learned Magistrate stated;

> *"There are several oral complaints received against you about the illegal activities of yours are causing wide spread danger to public health and creating a feeling of insecurity among the general public of that locality. If your activities are allowed unchecked there is every danger of its leading to Liquor Tragedies costing many lives of poor people in Penumakalanka, Locumudi and surrounding villages including Kaikaluru town its surroundings and thereby effects the Public Order."*

In the counter affidavit it has not been denied and it has also not been said that whatever the oral complaints the District Magistrate had received, were communicated to the detenu therefore the order of detention on this ground alone, cannot sustain. In this connection, we rely on one of the earlier cases reported in *K.Sarveswara Rao Vs. Government of Andhra Pradesh & others.*

For these reasons, we allow the Writ Petition and quash the order of detention. The respondents shall release the detenu forthwith, if not required in any other case. No order as to costs.

Writ Petition is accordingly allowed. No order as to costs.

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BILAL NAZKI, J

14th March 2005.

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L.NARASIMHA REDDY, J

ajr

To

1 The Secretary to Government, Government of A.P., General Administration

Department, Secretariat, Hyderabad.
2 The Collector, and District Magistrate, Krishna District, Machilipatnam.
3 The Superintendent, Central Prison, Rajahmundy.

4 Two C.Cs. to the Advocate General, High Court of A.P., Hyderabad

(O.U.T).

5 Two C.D. copies.